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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,091	06/15/2001	Edmund Y. Ting	340058.535	8645
500 7590 02/17/2005 SEED INTELLECTUAL PROPERTY LAW GROUP PLLC 701 FIFTH AVE SUITE 6300 SEATTLE, WA 98104-7092			EXAMINER MCKANE, ELIZABETH L	
			ART UNIT 1744	PAPER NUMBER

DATE MAILED: 02/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,091

Applicant(s)

TING ET AL.

Examiner

Leigh McKane

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) 1-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 35-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 042202, 102202, 122702, 013603, 072303, 101603, 080604
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase “substantially high” in line 3 renders the claim vague and indefinite as the meaning of “substantially high” is not defined by the claims or specification.

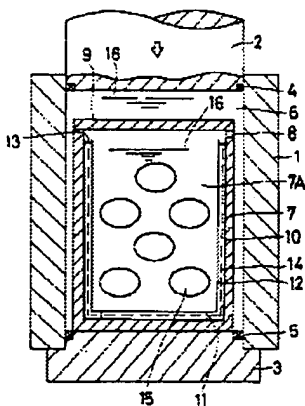
Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 35, 40, 44-46, and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Kazunobu (JP 6-7135).



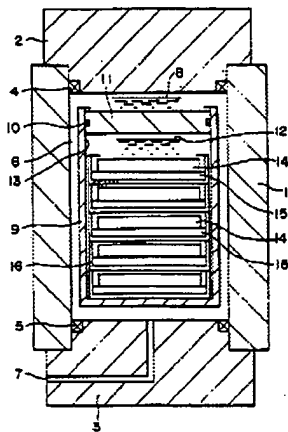
Kazunobu teaches a method for pressure treating a product 15 wherein the method includes loading the product 15 into a removable product carrier 12 surrounded by heat-insulating material 7 which is inserted into a pressure vessel 1. The carrier 12 and its contents are pressurized with a volume of pressure media 16 for a selected period of time, after which the carrier can be removed from the pressure

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vessel. Alternately, a volume of preheated pressure medium can be added to the product carrier prior to inserting the carrier into the pressure vessel. This preheated pressure medium will act to preheat

5. Claims 35 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (U.S. Patent No. 5,475,983).

Yamamoto et al. teaches a method of pressure processing wherein a product 14 is loaded



into a product carrier 9 insulated with a heat-insulating material. The product carrier 9 is then inserted into a pressure vessel 1. Thereafter the product carrier and product are pressurized with fluid media 8,12 for a selected period of time and then carrier is removed from the vessel. Fluid media 12 may be added prior to the product.

Claim Rejections - 35 USC § 103

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various

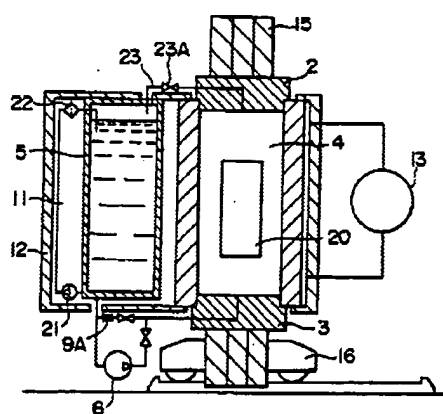
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claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 36-39, 41-43, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazunobu in view of Yutaka (U.S. Patent No. 5,213,029).

The carrier 12 of Kazunobu is insulated on an exterior surface by insulating material 7. It is noted that the phrase "as it is moved from a preheated apparatus to the ultrahigh-pressure vessel" is considered to be an intended use of the device and is not a patentable limitation on the claim.

While Kazunobu discloses preheating the pressure medium, the reference is silent with respect to also preheating the product/product carrier and pressure vessel. Yutaka teaches a



pressure treatment method that combines high pressure with high temperature or low temperature (col.1, lines 15-17) wherein the pressure vessel 1, product 20 and medium tank 5 are all enclosed within a temperature controlled chamber 12. See Figure 2.

FIGURE 2

Yutaka discloses that the temperature controlled chamber keeps the product, chamber, and pressure medium at a preselected temperature and thereby reduces the energy costs of

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operating the device. See col.3, line 53 to col.4, line 8. For this reason, it would have been obvious to preheat the product and vessel of Kazunobu – i.e. in order to reduce energy costs.

9. Claims 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kazunobu in view of Yutaka and Kazuo (JP 2-182157).

Kazunobu teaches a method for pressure treating a product 15 wherein the method includes loading the product 15 into a removable product carrier 12 made of a heat-insulating material which is inserted into a pressure vessel 1. The carrier 12 and its contents are pressurized with a volume of pressure media 16 for a selected period of time, after which the carrier can be removed from the pressure vessel. While Kazunobu discloses preheating the pressure medium, the reference is silent with respect to also preheating the product/product carrier and pressure vessel.

Yutaka teaches a pressure treatment method that combines high pressure with high temperature or low temperature (col.1, lines 15-17) wherein the pressure vessel 1, product 20 and medium tank 5 are all enclosed within a temperature controlled chamber 12. See Figure 2. Yutaka discloses that the temperature controlled chamber keeps the product, chamber, and pressure medium at a preselected temperature and thereby reduces the energy costs of operating the device. See col.3, line 53 to col.4, line 8. For this reason, it would have been obvious to preheat the product and vessel of Kazunobu – i.e. in order to reduce energy costs.

Kazunobu is silent with respect to evacuating the pressure media, reheating it, and reusing for treatment of another product. However, Kazuo discloses a method similar to that of Kazunobu wherein after the pressure treatment, the pressure medium is evacuated, reheated, and

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reused. As recycling is an efficient and economical use of the medium and temperature recovery, it would have been an obvious modification to the method of Kazunobu.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Wednesday (7:15 am-4:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1275. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leigh McKane
Primary Examiner
Art Unit 1744

elm
16 February 2005